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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,019

12/21/2004

Yoon Ngen Moo

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EXAMINER

SZMAL, BRIAN SCOTT

ART UNIT

PAPER NUMBER

3736

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/519,019	MOO, YOON NGEN	
	Examiner	Art Unit	
	Brian Szmal	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-21-04</u> . | 6) <input type="checkbox"/> Other: ____ |

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The abstract of the disclosure is objected to because the Abstract contains claim language. Claim language such as "said" is not permitted within the body of the Abstract, and should be replaced with "the". Furthermore, in line 6, "havig" should read as "having" to correct the spelling error. Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claim 1 is objected to because of the following informalities:

In line 1:

"comprising of;" should read as "comprising:"

In line 3:

"first collecting means" should read as "a first collecting means in order to be grammatically correct.

In line 4:

"the exocervix" should read as "an exocervix" since there is no antecedent basis for "the exocervix" within the claim.

In line 5:

"samples;" should read as "samples; and"

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In line 6:

“second collecting means” should read as “a second collecting means” in order to be grammatically correct.

“attached to first collecting means” should read as “attached to said first collecting means” due to the recitation of “said first and second collecting means” in line 9 of the claim.

In line 7:

“the endocervix” should read as “an endocervix” since there is no antecedent basis for “the endocervix” within the claim.

In line 8:

“endocervix area;” should read as “endocervix area,”

Appropriate correction is required.

4. Claims 2 and 3 are objected to because of the following informalities:

In lines 1-2:

“the first and second collecting means” should read as “said first and second collecting means” due to the recitation of “said first and second collecting means” in line 9 of Claim 1.

Appropriate correction is required.

5. Claim 6 is objected to because of the following informalities:

In lines 1-2:

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"when in collecting position" should read as "when in a collecting position," to be grammatically correct.

In line 2:

"the first collecting means" should read as "said first collecting means" due to the previous use of "said first and second collecting means" in line 9 of Claim 1.

In lines 2-3:

"first collecting means is a substantially right angle" should read as "first collecting means is at a substantially right angle" in order to be grammatically correct.

Appropriate correction is required.

6. Claim 7 is objected to because of the following informalities:

In lines 1-2:

"when in smearing position" should read as "when in a smearing position," in order to be grammatically correct.

In line 2:

"the first and second collecting means" should read as "said first and second collecting means" due to the previous use of "said first and second collecting means" in line 9 of Claim 1.

In line 5:

"onto microscope slide" should read as "onto a microscope slide" in order to be grammatically correct.

Appropriate correction is required.

7. Claim 8 is objected to because of the following informalities:

In lines 1-2:

"wherein in smearing position" should read as either "wherein when in the smearing position," or "wherein when in said smearing position," in order to be grammatically correct.

In lines 2-3:

"the second collecting means" should read as "said second collecting means" due to the previous use of "said first and second collecting means" in line 9 of Claim 1.

In line 4:

"the said second collecting means" should read as "said second collecting means" in order to be grammatically correct.

In lines 5-6:

"planar" should read as "plane" in order to correspond to Claim 7.

"the first collecting means" should read as "said first collecting means" due to the previous use of "said first and second collecting means" in line 9 of Claim 1.

Appropriate correction is required.

8. Claim 9 is objected to because of the following informalities:

In lines 1-2:

"which includes a handle, first collecting means" should read as "including: a handle, a first collecting means" in order to be grammatically correct.

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In line 3:

“the exocervix” should read as “an exocervix” due to the lack of antecedent basis for “the exocervix” previously in the claim.

In lines 4-5:

“second collecting means” should read as “a second collecting means” in order to be grammatically correct.

“attached to first collecting means” should read as “attached to said first collecting means” due to the use of “said first and second collecting means” in line 8 of the claim.

In line 6:

“the endocervix area” should read as “an endocervix area” due to the lack of antecedent basis for “the endocervix area” previously in the claim.

In line 7:

“characterized in that,” should read as “wherein” in order to comply with current USPTO claim language standards.

In line 9:

“relatively” should read as “relative” in order to be grammatically correct.

In line 10:

“between smearing position” should read as “between a smearing position” in order to be grammatically correct.

In lines 10 and 12:

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"they" should be replaced with "said first and second collecting means" since "they" is considered to be an indefinite term.

In lines 10-11:

"are generally L- shaped" should read as "are in a generally L-shaped" in order to be grammatically correct.

Appropriate correction is required.

9. Claims 4 and 5 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1 and 9 contain non-statutory subject matter, in particular, claiming a body part in lines 4 and 3 of Claims 1 and 9 respectively. In order to overcome the rejection, the first collecting means should be "adapted for" hugging an exocervix.

Claim Rejections - 35 USC § 102

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11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-3 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Claren (WO 91/16855).

Claren discloses a cervical sampling brush and further discloses an elongate handle; a first collecting means (14) attached to one end of the handle (10) for hugging the exocervix and scraping cytology cell samples; a second collecting means (13) attached to first collecting means (14) for collecting cytology cell samples from the endocervix area; wherein the first and second collecting means (14, 13) are pivotally connected (See Figure 6); the first and second collecting means (14, 13) each have a resilient surface to collect the cell samples (See page 6, lines 3-12); the first and second collecting means (14, 13) each have a bristle surface (15) to trap the cell samples (See page 6, lines 7-12); when in a collecting position, the first collecting means (14) is substantially right angle with the second collecting means (13) (See Figures 3 and 7); when in the smearing position, the surfaces of the first and second collecting means (14, 13) are in the same plane to enable a wider spread of the collected cell samples onto microscope slide (19) (See Figure 4); wherein when in the smearing position, the end of handle (10) adjacent the second collecting means has a slight extension (18) to prevent the second collecting means (13) from pivoting beyond the same plane as the first collecting means (14); and the first and second collecting means (14, 13) are

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pivotally connected so as to be movable relatively to one another between smearing position in which the first and second collecting means are generally L-shaped configuration and a smearing position in which the first and second collecting means (14, 13) are in a straight line (See Figures 7 and 8).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj who's telephone number is (571) 272-4733. The examiner can normally be reached on Monday-Thursday, with Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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